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Paper No. 14

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MAR 03 2006

OFFICE OF PETITIONS

In re Application of
Rhee, et al
Application No. 09/763,589
PCT No.: PCT/KR99/00690
Int. Filing Date: 17 November 1999
Priority Date: 19 July 1999
Attorney's Docket No. 1141/201
For: METHOD AND DEVICE FOR
GENERATING VOICE/TEXT/IMAGE
COMMERCIAL INFORMATION
RINGBACK TONE DURING
COMMUNICATION WAIT

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: DECISION ON PETITION TO
: WITHDRAW NOTICE OF
: ABANDONMENT
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The instant application was forwarded to the Office of Patent Legal Administration (OPLA) for a decision on a May 17, 2004 PETITION ... TO VOID ASSIGNMENT, which has been rendered in a separate paper of even date. To expedite placement of this application back into prosecution, an April 13, 2005 petition under 37 CFR 1.137(a), to revive the instant application as unavoidably abandoned, previously treated as a petition to withdraw a notice of abandonment and held in abeyance pending a decision on the petition to void assignment in an October 26, 2005 decision on the petition, will also be treated by OPLA.

The petition to withdraw the notice of abandonment is Granted.

I. Brief Review of Facts

The instant national stage 35 U.S.C. 371 application papers were submitted on February 23, 2001, which included a Declaration and Power of Attorney pursuant to § 1.63 signed by the two named inventors: Hyoung Chan Rhee (Rhee) and Jong Su Hong (Hong). The inventors provided a power of attorney in-part to Jonathan Y. Kang of Lee & Hong P.C.

On June 30, 2003 a REVOCATION OF PRIOR POWER OF ATTORNEY AND POWER OF ATTORNEY was submitted by the assignee withdrawing the previous power of attorney (granted in the February 23, 2001 § 1.63 declaration by the inventors) and granting a new power of

attorney to Wen Liu of LIU & LIU.

On November 18, 2003 a first Office action on the merits, setting a 3 month shortened statutory period for reply, was mailed and sent as directed by the original power of attorney of February 23, 2001 of the inventors and not as directed by the subsequent June 30, 2003 revocation and new power of attorney of the assignee.

Belatedly, the Office on May 18, 2004, based on the June 30, 2003 Revocation, mailed a NOTICE REGARDING CHANGE IN POWER OF ATTORNEY noting the loss of power of attorney to the practitioners in the office of Lee & Hong (appointed by the inventors) and mailed a NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY noting the grant of a power of attorney to practitioners in the office of LIU & LIU (appointed by the assignee).

On September 22, 2004 the Office mailed to Wen Liu a practitioner in the Office of LIU & LIU a Notice of Abandonment based on the failure to receive a reply to the Office action of November 18, 2003 (notwithstanding a September 10, 2004 paper from Wen Liu noting that he had been advised the application was abandoned, and that the Office action causing the abandonment was not mailed to the correct correspondence address based on the June 30, 2003 new appointment of a power of attorney).

On April 13, 2005 the instant petition for revival of the application pursuant to § 1.137(a) was submitted along with a reply to the outstanding Office action.

On October 26, 2005 the Office of Petitions determined that the § 1.137(a) petition to revive the abandoned application was properly treated as a petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181(a)(3). This petition was then held in abeyance pending the outcome of another petition on behalf of the inventors in effect challenging the appropriateness of the assignee and the power of attorney set forth by that assignee.

II. Decision on Petition to Withdraw Notice of Abandonment

The Office in a decision of even date, having determined that a power of attorney as provided by the assignee is appropriate, will now address the petition to withdraw the notice of abandonment submitted on behalf of the assignee along with a \$250 petition fee.

A § 1.181 petition does not require a petition fee. As an authorization has not been provided to credit any excess fees to a deposit account, a refund of the \$ 250 § 1.137(a) petition fee may be timely requested pursuant to § 1.26(b) by separate letter with a copy of this decision to Finance Branch.

As the underlying Office action causing issuance of the Notice of Abandonment was not mailed by the Office to the correct correspondence address to a practitioner in the Office of LIU & LIU, but was instead mailed to a previous correspondence address to a practitioner in the Office of Lee & Hong¹, the petition is granted.

As the April 13, 2004 petition was accompanied by a RESPONSE TO OFFICE ACTION, the application is in condition for further examination.

¹The petition to revive states that a copy of the Office action was not forwarded, at page 3.

III. Correspondence Address

The current correspondence address of record and which appears in Office PALM data was set by the June 30, 2003 revocation and appointment of power of attorney and is:

Wen Liu
Liu & Liu
811 West Seventh Street; Suite 1100
Los Angeles, California 90017

It is noted that the October 26, 2005 decision ON PETITION was mailed to the following address, which address was present in the April 13, 2005 petition to revive the application:

LIU & LIU
444 S. Flower Street
Suite 1750
Los Angeles, CA 90071

As a courtesy, the instant decision is being mailed to both addresses. All future papers will be mailed to the correspondence address of record, which is the West Seventh Street address absent an explicit change in correspondence address to the Flower Street address.

IV. Forwarding of Application

The application is being forwarded to TC Art Unit 2642 for an action on the merits in response to applicant's reply of April 13, 2005.



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